

‘Living Wills’ – Catholic Moral Teaching on Advance Medical Directives

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Outline

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- II. Definitions & Distinctions
- III. Determining whether to withhold or withdraw treatment
- IV. The Problem with Living Wills
- V. Take Home Message

I. Principles

1. The life of every individual is created in the image and likeness of God and is therefore sacred and inviolable from conception to natural death.
2. All persons are entitled to a dignified death in God's own time, but directly killing patients or assisting in their suicide is gravely evil and absolutely prohibited by the natural moral law.

3. The duty to preserve life does not involve an obligation to prolong the dying process by technological measures.
4. A competent patient is entitled to decline extraordinary therapeutic measures whose burdens exceed their benefits.

5. The patient's autonomy does not supersede the conscience of the physician. The physician must be free to refuse to participate in immoral procedures, and free to refuse to refer to other providers who might be willing to perform such procedures.
6. The life of an individual is a great good which is a good "of" the person and not just a good "for" the person. Life is not merely instrumental to other goals; it is an intrinsic good.

7. Food and drink are instances of ordinary care and not a treatment of a disease. They should be administered until they become futile or constitute an unreasonable burden for the patient.
8. It is a moral duty and a legal right of each patient (who is competent and not a minor) to act on informed consent.

9. The human person is normally required to maintain his life and health. Consequently, a patient is obliged to accept only ordinary and proportionate means to preserve life or health.
10. The human person has ultimate responsibility for his life and health to the extent that he has the requisite knowledge, power and freedom to act.
11. The human person may never choose directly to end his own life.

II. Definitions & Distinctions

“Living Will”

A living will is a legal form on which one attempts to spell out in detail one's treatment decisions in the event one is rendered incompetent to do so.

It is a form of legalized substituted consent.

One entrusts treatment decisions to a document.

Durable Power of Attorney for Healthcare

Also known as a “medical power of attorney”
or “healthcare proxy”

A legal document which allows you to designate another person (the “agent”) to make your treatment decisions in the event you are incompetent to do so.

You entrust your treatment decisions to a trusted human being.

Treatment vs. care-giving

Treatment

A medical act intended to cure or alleviate the symptoms of an underlying pathological condition

Care

ordinary help due to sick patients to help them carry out ordinarily daily activities that this person is not able to do, or do effectively, by himself.

Extraordinary vs. ordinary treatment

Medically ordinary

- 1- scientifically established
- 2- statistically successful
- 3- reasonably available

Ethically ordinary

A treatment which is beneficial, useful and not unreasonably burdensome (physically, psychologically, economically).

Extraordinary vs. ordinary treatment

Ethically extraordinary

A treatment which may be deemed unreasonably burdensome in light of foreseeable benefits.

We may legitimately forego such treatment or withdraw such treatment already begun when it is judged to fall in this category.

III. Determining whether to withhold or withdraw treatment

1. Is there a moral obligation to initiate or continue treatment?
2. If 'no', then we must prudentially judge foreseeable benefits and burdens.
3. Then determine whether the expected burdens are disproportionately large with regard to the expected benefits.
4. If the foreseen burdens of the treatment exceed the benefits reasonably expected, then one may reasonably withhold or withdraw the treatment.

IV. The Problem with 'Living Wills'

Medical treatment is generally lengthening the terminal phase of our lives.

This makes our situation in that phase much more complicated.

Today end-of-life decisions are quite complex.

Black & white indications on a "living will" are of little help in non-black & white decisions about your complicated medical situation.

IV. The Problem with ‘Living Wills’

Arguable 50% or more of doctors will ignore written advanced directives (“living wills”)

Standard “living will” tend to leave matters dangerously ambiguous

Most physicians welcome the presence of a designated healthcare agent (*often with great sense of relief!*)

IV. The Problem with 'Living Wills'

The "living will" mentality goes hand in hand with a "quality of life" mentality:

Presumption that you are better off DEAD!

Presumption that if you are rendered incompetent (i.e. irreversible brain damage), any reasonable person would
RATHER BE DEAD.

What is our underlying attitude toward the value of life in these extreme conditions?

*In formulating advance medical directives,
we cannot be driven by fear or by
imagination gone wild.*


*And we must understand the value that the
terminal phase of our lives can have for us
and for our loved ones.*

IV. The Problem with ‘Living Wills’

Most “living will” formats list as “treatments” what Catholic morality considers normal care giving.

Most notorious is how these forms treat artificially delivered nutrition and hydration (ANH) as an extraordinary medical intervention.

HEALTH CARE PROXY ATTACHMENT

1. If I become terminally ill, I  do not want to receive the following treatments checked in a-I below.

2. If I am in a coma or unconscious, with no hope of recovery, then I do not want to receive the following treatments checked in a-I below.

3. If I have brain damage or a brain disease that makes me unable to recognize people or speak and there is no hope my condition will improve, I do not want to receive the following treatments checked in a-I below.

_____ a. Artificial respiration.

_____ b. Artificial nutrition and hydration (nourishment and water provided by feeding tube).

_____ c. Cardiopulmonary resuscitation (CPR).

ANH is a form of care-giving

“The administration of water and food, even when provided by artificial means, always represents a *natural means* of preserving life, not a *medical act*. Its use, furthermore, should be considered, in principle, *ordinary* and *proportionate*, and as such morally obligatory, insofar as and until it is seen to have attained its proper purpose, which in the present case consists in providing nourishment to the patient and alleviation of his suffering.”

John Paul II, March 20, 2004

When may ANH be licitly withheld or withdrawn?

- Many licit reasons to remove it temporarily (reasons of comfort, temporary severe agitation of the patient, hygiene, infection)
- Permanently withheld or withdrawn:
 - When ANH is futile because patient cannot metabolize and/or is imminently dying
 - When administering ANH is judged to constitute an unreasonable burden for some other reason (rare).

When may ANH be licitly withheld or withdrawn?

Following these principles and applying them carefully, those involved in the decision process can be assured that they may be allowing the patient to die, but they are *not causing death*.

Do you need some form of written advance medical directives?

- Written advance directives, on the whole, can be problematic:
 - Most “living will” formats are seriously flawed;
 - The more we write, the more complicated it gets; must be highly specific
 - Ethical wording tends to be interpreted differently by legal profession
 - If necessary, use “pro life” advance directive forms;

Do you need some form of written advance medical directives?

- Best to do **no more** than designate a healthcare proxy (durable power of attorney for healthcare).
 - Spouse
 - Child
 - Good friend; neighbor
 - Trusted physician

Take Home Message

- Think about the kinds of treatment you will want/not want to receive if you become gravely ill.
- Work with a trusted physician and a trusted moral guide (who understands Church teaching).
- Work to get the principles and distinctions straight.

Take Home Message

- Treatment vs. care-giving;
- Extraordinary vs. ordinary treatment
- You have the right to refuse (ethically) extraordinary means of medical treatment if there is no obligation to undergo such treatment.

Take home message

- It is NOT a good idea to fill out a “living will” as commonly used today.
- It CAN be a good idea to designate a durable power of attorney for healthcare.
- Do so in written form.

Healthcare Proxy Options

- Option 1: Limit the document to declaring the agent.
- Option 2: Declare the agent AND put in writing some advance directives
- Option 1 is arguably the safest IF your designated agent **KNOWS & UNDERSTANDS YOUR WISHES**
- Option 2 may be of help eventually to your designated agent or to avoid potential conflicts with family members or courts

In New York

- Give copies to your agent, another family member, and your personal physician.
- You must sign & date the document in the presence of two witnesses together at the same time, and at least 18 years old
- They must sign the document in your presence and each other's presence.

Examples of “special conditions”

When “death is imminent”
(will live no more than a week even with all
available treatment)

You may choose to refuse:

- Cardio Pulmonary Resuscitation
- Medications other than pain relievers

Examples of “special conditions”

When you are in the “final stage of a terminal illness”

(will live no more than three months even with all available treatment)

You may choose to refuse:

- CPR
- Surgery that would not cure me
- A treatment that will cause severe, intractable pain but will not cure me.

Get info on Durable Healthcare Power of Attorney

- The International Anti-Euthanasia Task Force (www.iaetf.org)
- The National Right to Life Committee (www.nrlc.org) offers state-specific forms called Will to Live.
- The National Catholic Bioethics Center (www.ncbcenter.org) offers a form as well as a pamphlet discussing the issue from a Catholic perspective.



The Westchester Institute for Ethics and the Human Person

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